

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-160184
		C-160222
Plaintiff-Appellee,	:	TRIAL NOS. B-1502592-A
		B-1503265-A
vs.	:	
KENNETH GENTRY,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Kenneth Gentry pleaded guilty to involuntary manslaughter and two counts of trafficking in heroin. Gentry now appeals and asserts three assignments of error. We affirm.

In his first assignment of error, Gentry claims that his guilty pleas were not made knowingly, intelligently, and voluntarily for a variety of reasons. Under Crim.R. 11(C), before accepting a guilty plea, the trial court must address the defendant personally and, as relevant to this appeal, make sure the defendant understands the consequences of his guilty pleas and the maximum penalties involved. *See* Crim.R. 11(C)(2)(a). A review of the record demonstrates that Gentry understood the consequences of his guilty pleas. The court engaged in an extensive Crim.R. 11 colloquy with Gentry, during which he acknowledged that he understood the facts and charges against him, the maximum penalties for the offenses, that his sentences could be made consecutive, that involuntary manslaughter was not a community control sanction eligible offense, that the sentence

would include a mandatory minimum term, and the rights he was forfeiting by pleading guilty, including the rights to a jury trial, to confront witnesses, and to subpoena witnesses. He stated that he had reviewed the plea form with his attorney, he had signed it, the facts read by the prosecutor were true and accurate, he had no remaining questions for his attorney, and he had received no threats or promises in exchange for pleading guilty.

Gentry first argues that his pleas were involuntary because the court failed to notify him that by pleading guilty he would waive his right to appeal the denial of his motion to suppress. However, the court is not required to provide that specific notification. *State v. Chichester*, 1st Dist. Hamilton No. C-050381, 2006-Ohio-4030, ¶ 11; see Crim.R. 11(C)(2)(c). Next, he contends that the evidence contains inconsistencies, and asserts that he did not cause the victim's death and counsel should have obtained an expert witness to testify on his behalf at trial. However, because a guilty plea is a complete admission of guilt, a defendant who voluntarily enters a guilty plea while represented by competent counsel waives the right to appeal all nonjurisdictional issues arising at prior stages of the proceedings. *State v. Calloway*, 1st Dist. Hamilton No. C-040066, 2004-Ohio-5613, ¶ 21; see *Ross v. Court*, 30 Ohio St.2d 323, 323-324, 285 N.E.2d 25 (1972). Further, much of what Gentry challenges is based on information outside of the record, which we cannot consider. See *State v. Ishmail*, 54 Ohio St.2d 402, 405-406, 377 N.E.2d 500 (1978), paragraph one of the syllabus.

Upon review of the record before us, we determine it contains ample evidence that Gentry's pleas were voluntarily, knowingly, and intelligently made. Thus, we overrule his first assignment of error.

In his second assignment of error, Gentry contends that he was deprived of his constitutional right to the effective assistance of counsel. To succeed on his ineffective-assistance claim, Gentry must establish that his trial counsel's representation was so deficient that it was unreasonable under prevailing professional norms, and that, absent his counsel's errors, the result of the proceedings would have been different. *See Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *see also State v. Pickens*, 141 Ohio St.3d 462, 2014-Ohio-5445, 25 N.E.3d 1023, ¶ 199.

Again, most of Gentry's complaints about his counsel are based on communications that are not contained within the record before us. We are unable to determine on direct appeal whether counsel was ineffective where the allegations of ineffectiveness are based on facts that do not appear in the record. *See State v. Cooperrider*, 4 Ohio St.3d 226, 228, 448 N.E.2d 452 (1983). Further, with respect to his argument that his counsel was ineffective for failing to address the matters in his first assignment of error, our disposition of that assignment demonstrates that his counsel's representation did not fall below an objective standard of reasonable representation. *See Strickland* at 688. Accordingly, we overrule his second assignment of error.

In his third assignment of error, Gentry claims that his sentences were not supported by the findings in the record. Gentry pleaded guilty to involuntary manslaughter and trafficking in heroin in the case numbered B-1502592A, and trafficking in heroin in the case numbered B-1503265. The court sentenced him to ten years for manslaughter, 12 months for trafficking in heroin (B-1502592A), and eight years for trafficking in heroin (B-1503265), all to be served concurrently. Gentry argues

that the trial court failed to consider the mitigating factors and that his prison sentences do not address his drug addiction or adequately prepare him to reenter society.

This court may modify or vacate a defendant's sentence only if we clearly and convincingly find that the sentence is contrary to law or that the record does not support the sentence. R.C. 2953.08(G)(2)(a); *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 23. In this case, the record demonstrates that the trial court considered Gentry's stated grounds for mitigation, as well as his prior criminal history and the presentence-investigation report. Further, Gentry's sentences were within the applicable statutory ranges. Absent an affirmative showing to the contrary, we presume the court properly considered the relevant factors set forth in R.C. 2929.11 and 2929.12. *State v. Hendrix*, 1st Dist. Hamilton Nos. C-150194 and C-150200, 2016-Ohio-2697, ¶ 51, citing *State v. Alexander*, 1st Dist. Hamilton Nos. C-110828 and C-110829, 2012-Ohio-3349, ¶ 24. As a result, we cannot clearly and convincingly find that his sentences were contrary to law. We overrule Gentry's third assignment of error.

We affirm the judgments of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., CUNNINGHAM and ZAYAS, JJ.

To the clerk:

Enter upon the court's journal on March 15, 2017

per order of the court _____.

Presiding Judge